

### REMARKS

In the Non-final Office Action mailed June 11, 2008, claims 1-29, 31-40, 42-49 and 55-59 were pending and stand rejected. Claims 1, 9, 15, 16, 22, 25, 26, 32, 35, 42, 45, 46 and 49 are amended in this response. In view of the following remarks, reconsideration and allowance of the present application are hereby requested.

Support for the amendments to claims 1, 16 and 26 may be found at least in paragraph [0030] and Figures 3-4. Support for the amendments to claims 9, 22, 32 and 42 may be found at least in paragraph [0023] and Figures 1 and 4. Support for the amendments to claims 15, 25, 35, 45 and 49 may be found at least in paragraphs [0024]-[0025] and Figures 3-4. Entry of the amendments to these claims is respectfully requested.

Claims 1, 5-7, 9-14, 16, 19-20, 22-24, 26, 29, 31-34, 36, 39-40, 42-44, 46-48, and 55 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,626,471 to Florin. It is well established that "an invention is anticipated if the same device, including all the claim limitations, is shown in a single prior art reference. Every element of the claimed invention must be literally present, arranged as in the claim." Richardson v. Suzuki Motor Co. Ltd., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The claims must not be treated as "mere catalogs of separate parts, in disregard of the part-to-part relationships set forth in the claims and that give the claims their meaning." Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Company et al., 730 F.2d 1452, 1459, 221 USPQ 481, 486 (Fed. Cir. 1984). As a result, a reference that coincidentally lists features of a claim without describing the claimed arrangement, relationship, and organization of such features cannot anticipate.

Florin discloses an arched retractor blade 11 that is flat in cross-section but arched along its length. A pair of suction tubes 13, 14 are provided at each lateral edge of retractor blade 11 and attached to the undersurface of retractor blade 11. A fiber optic element 21 is curved to match the longitudinal curvature of retractor blade 11, and axially spaced clips 22, 23 hold fiber optic element 21 in position between suction tubes 13, 14.

Amended claim 1 recites "a lighting element including at least one wall member and at least one light transmitting element along said at least one wall member, said at least one wall member being bendable and resilient so that when bent and positioned along said inner wall

surface said at least one wall member returns toward said pre-bent configuration and frictionally engages said inner wall surface” of the retractor and that “said frictional engagement sufficient to maintain a position of said lighting element relative to said retractor after said lighting element is moved while frictionally engaging said inner surface to said position”. Florin does not disclose that fiber optic element 21 or clips 22, 23 include any wall member having these features. While fiber optic element 21 may be curved, there is no disclosure that it is resilient or that it has any capability of returning toward a pre-bent configuration to frictionally engage a surface of retractor blade 11 to maintain its position relative to the retractor blade 11. There also is no disclosure that clips 22, 23 are even bendable or that if bent that clips 22, 23 would have any resiliency to return toward a pre-bent position. Therefore, claim 1 is not anticipated by Florin and withdrawal of this basis of the rejection of claim 1 is respectfully requested.

Claims 5-7 and 9-14 depend from claim 1 and were also rejected as anticipated by Florin. These claims distinguish Florin at least for the reasons claim 1 does and for other reasons. For example, claim 6 recites “wherein said inner wall surface of said retractor substantially encloses said working channel and said at least one wall member of said lighting element extends about at least 50 percent of said inner wall surface.” Florin discloses retractor blade 11 includes a flat cross-section, as shown in Fig. 2 and stated at col. 1, lines 21-25. Therefore, Florin completely lacks any disclosure of an inner wall surface substantially enclosing a working channel of claim 6 since the flat surface cannot substantially enclose any working channel. Amended claim 9 recites “wherein said at least one wall member includes a first wall member including a convexly curved surface positionable along said inner wall surface of said retractor and a second wall member including a concavely curved wall surface opposite said convexly curved wall surface, wherein said concavely curved wall surface is exposed to said working channel.” Florin does not disclose that fiber optic element 21 includes any concavely curved wall surface exposed to a working channel of retractor blade 11. Only convexly curved surfaces of fiber optic element 21 are exposed to retractor blade 11. Furthermore, clips 22, 23 do not include any convexly curved wall surface. Rather, as shown in Fig. 3, clips 22, 23 include a flat outer surface oriented toward the flat inner surface of retractor blade 21 and concave outer surfaces around suction tubes 13, 14. The inner surface of clips 22, 23 oriented toward the working channel of retractor blade 11 is flat, as shown in Fig. 3. Therefore, withdrawal of the rejection of claims 5-7 and 9-14 depending

from claim 1 is respectfully requested.

Amended claim 16 recites "a lighting element including at least one wall member and at least one light transmitting element along said at least one wall member, said at least one wall member being bendable to conform with said inner wall surface and resilient to normally return toward a pre-bent configuration to frictionally engage said inner wall surface when said lighting element is positioned against said inner wall surface" of the retractor and that "said frictional engagement sufficient to maintain a position of said lighting element relative to said retractor after said lighting element is moved while frictionally engaging said inner surface to said position." Florin does not disclose that fiber optic element 21 or clips 22, 23 include any wall member having these features. While fiber optic element 21 may be curved, there is no disclosure that it is resilient or that it has any capability of returning toward a pre-bent configuration to frictionally engage a surface of retractor blade 11 to maintain its position relative to the retractor blade 11. Therefore, claim 16 is not anticipated by Florin and withdrawal of this basis of the rejection of claim 16 is respectfully requested.

Claims 19-20, 22-24 and 57 depend from claim 16 and were also rejected as anticipated by Florin. These claims distinguish Florin at least for the reasons claim 16 does and for other reasons. For example, claims 19 and 24 distinguish Florin for the same reasons provided above with respect to claims 6 and 9. Therefore, withdrawal of the rejection of claims 19-20 and 22-24 depending from claim 16 is respectfully requested.

Amended claim 26 recites "a lighting element including at least one wall member and at least one light transmitting element along said at least one wall member, said at least one wall member being deformable from a first configuration to conform with said inner wall surface and configured to normally return toward said first configuration to frictionally engage said inner wall surface, wherein said lighting element is movable axially along said inner wall surface of said retractor for repositioning said lighting element in said working channel while maintaining frictional engagement with said inner wall surface." Florin does not disclose that fiber optic element 21 or clips 22, 23 include any wall member having these features. While fiber optic element 21 may be curved, there is no disclosure that it or clips 22, 23 are deformable from a first configuration or that they have any capability of returning toward the first configuration to frictionally engage a surface of retractor blade 11 to maintain a position relative to the retractor

blade 11. Therefore, claim 26 is not anticipated by Florin and withdrawal of this basis of the rejection of claim 26 is respectfully requested.

Claims 29 and 31-34 depend from claim 26 and were also rejected as anticipated by Florin. These claims distinguish Florin at least for the reasons claim 26 does and for other reasons. For example, claims 29 and 32 distinguish Florin for the same reasons provided above with respect to claims 6 and 9. Therefore, withdrawal of the rejection of claims 29 and 31-34 depending from claim 26 is respectfully requested.

Claim 36 recites "a lighting element including at least one wall member and at least one light transmitting element along said at least one wall member, said at least one wall member frictionally engageable with said inner wall surface, wherein said lighting element is movable circumferentially about said inner wall surface of said retractor for repositioning said lighting element in said working channel while maintaining frictional engagement with said inner wall surface." Florin does not disclose that fiber optic element 21 is capable of moving circumferentially about the inner surface of retractor blade 11. Fiber optic element 21 is mounted to retractor blade 11 with clips 22-23 that extend between and abut the suction tubes 13, 14 positioned at the opposite lateral edges of retractor blade 11. Clips 22, 23 contact tubes 13, 14 and prevent any lateral or circumferential movement of fiber optic element 21. Therefore, Florin cannot anticipate claim 36.

Claims 39-40 and 42-44 depend directly or indirectly from claim 36 and are allowable at least for the reasons claim 36 is allowable and for other reasons. These claims distinguish Florin at least for the reasons claim 26 does and for other reasons. For example, claims 39 and 42 distinguish Florin for the same reasons provided above with respect to claims 6 and 9. Therefore, withdrawal of the rejection of claims 39-40 and 42-44 depending from claim 36 is respectfully requested.

Claim 46 recites a retractor with a working channel and "a lighting element including a pair of wall members and at least one light transmitting element between said pair of wall members, said pair of wall members forming a concavely curved inner wall surface of said lighting element and an opposite convexly curved outer wall surface of said lighting element, said outer wall surface positioned along said inner wall surface of said retractor with said concavely curved inner wall surface of said lighting element oriented toward and exposed to said

working channel.” Florin does not disclose that fiber optic element 21 includes any concavely curved wall surface exposed to a working channel of retractor blade 11. Only convexly curved surfaces of fiber optic element 21 are exposed to retractor blade 11. Furthermore, clips 22, 23 do not include any convexly curved wall surface. Rather, as shown in Fig. 3, clips 22, 23 include a flat outer surface, which is the surface positioned against the inner wall surface of the retractor in claim 46, oriented toward the flat inner surface of retractor blade 21 and concave outer surfaces around suction tubes 13, 14. The inner surface of clips 22, 23 oriented toward the working channel of retractor blade 11 is flat, as shown in Fig. 3. Therefore, withdrawal of the rejection of claim 46 is respectfully requested.

Claims 47-48 and 55 depend from claim 46 and are allowable at least for the reasons claim 46 is allowable. Withdrawal of this basis of the rejection of these claims is respectfully requested.

Claims 1, 5, 8-9, 16, 21-22, 26, 31-32, 36, 42 and 46 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,562,832 to Wilder et al. The rejection of these claims is based on Figure 7 of Wilder, which discloses a flat rectangular panel that is rolled into a coil for insertion into the patient and then released to uncoil partially and provide a passage into the patient. The upper end of the sheet has a plurality of through-holes to allow a light pipe to be inserted through a selected one of the holes to illuminate the surgical site. The light pipe can include a tubular, light director neck that may be clipped onto the sheet. See col. 9, lines 21-40.

Claim 1 recites “a lighting element including at least one wall member and at least one light transmitting element along said at least one wall member, said at least one wall member being bendable and resilient so that when bent and positioned along said inner wall surface said at least one wall member returns toward said pre-bent configuration and frictionally engages said inner wall surface” of the retractor and that “said frictional engagement sufficient to maintain a position of said lighting element relative to said retractor after said lighting element is moved while frictionally engaging said inner surface to said position”. Wilder does not disclose that light pipe 44 includes any wall member having these features. Rather, Wilder discloses a tubular light pipe that is positioned through an opening 45 and that can be bent to allow the light to be directed, but it fails to disclose any resilient light pipe 44 or that light pipe 44 is resilient to return

toward a pre-bent configuration to engage any surface of panel 42. While panel 42 may be flexible and resilient, it is not a lighting element that is frictionally engaged to any inner wall surface of a retractor. Therefore, claim 1 is not anticipated by Wilder and withdrawal of this basis of the rejection of claim 1 is respectfully requested.

Claims 5, 8 and 9 depend from claim 1 and were also rejected as anticipated by Wilder. These claims distinguish Wilder at least for the reasons claim 1 does and for other reasons. For example, with respect to claim 8, Wilder does not disclose that light pipe 44 is capable of moving circumferentially about the inner surface of panel 42. Light pipe 44 is mounted to panel 42 by being positioned through one of the openings 45. However, when positioned through an opening 45, light pipe 44 is constrained from moving circumferentially along panel 42. When light pipe 44 is removed from an opening 45 and positioned in another opening 45, it is not moved circumferentially about an inner surface of panel 42 while maintaining frictional engagement with the inner wall surface. Therefore, claim 8 distinguishes Wilder. Claim 9 distinguishes Wilder because Wilder does not disclose that light pipe 44 includes any concavely curved wall surface exposed to a working channel of panel 42. Light pipe 44 is only disclosed to include convexly curved surfaces on its exterior exposed to panel 42. Nor has the examiner provided any explanation of where Wilder discloses these features. Therefore, withdrawal of this basis of the rejection of claims 5, 8 and 9 depending from claim 1 is respectfully requested.

Claim 16 recites "a lighting element including at least one wall member and at least one light transmitting element along said at least one wall member, said at least one wall member being bendable to conform with said inner wall surface and resilient to normally return toward a pre-bent configuration to frictionally engage said inner wall surface when said lighting element is positioned against said inner wall surface" of the retractor and that "said frictional engagement sufficient to maintain a position of said lighting element relative to said retractor after said lighting element is moved while frictionally engaging said inner surface to said position." Wilder does not disclose that light pipe 44 includes any wall member having these features. Rather, Wilder discloses a tubular light pipe that is positioned through an opening 45 and that can be bent to allow the light to be directed, but it fails to disclose any resilient light pipe 44 or that light pipe 44 is resilient to return toward a pre-bent configuration to engage any surface of panel 42. While panel 42 may be flexible and resilient, it is not a lighting element that is

frictionally engaged to any inner wall surface of a retractor. Therefore, claim 16 is not anticipated by Wilder and withdrawal of this basis of the rejection of claim 16 is respectfully requested.

Claims 21-22 depend from claim 16 and were also rejected as anticipated by Wilder. These claims distinguish Wilder at least for the reasons claim 16 does and for other reasons. For example, claims 21 and 22 distinguish Wilder at least for the reasons provided above with respect to claims 8 and 9. Therefore, withdrawal of this basis of the rejection of claims 21-22 depending from claim 16 is respectfully requested.

Claim 26 recites "a lighting element including at least one wall member and at least one light transmitting element along said at least one wall member, said at least one wall member being deformable from a first configuration to conform with said inner wall surface and configured to normally return toward said first configuration to frictionally engage said inner wall surface, wherein said lighting element is movable axially along said inner wall surface of said retractor for repositioning said lighting element in said working channel while maintaining frictional engagement with said inner wall surface." Wilder does not disclose that light pipe 44 includes any wall member having these features. Nor is there any disclosure that light pipe 44 is configured to normally return from a deformation to frictionally engage any wall surface of a retractor. While panel 42 may be flexible and resilient, it is not a lighting element that is frictionally engaged to any inner wall surface of a retractor. Therefore, claim 26 is not anticipated by Wilder and withdrawal of this basis of the rejection of claim 26 is respectfully requested.

Claims 31-32 depend from claim 26 and were also rejected as anticipated by Wilder. These claims distinguish Wilder at least for the reasons claim 26 does and for other reasons. For example, claims 31 and 32 distinguish Wilder for the same reasons provided above with respect to claims 8 and 9. Therefore, withdrawal of this basis of the rejection of claims 31-32 depending from claim 26 is respectfully requested.

Claim 36 recites "a lighting element including at least one wall member and at least one light transmitting element along said at least one wall member, said at least one wall member frictionally engageable with said inner wall surface, wherein said lighting element is movable circumferentially about said inner wall surface of said retractor for repositioning said lighting

element in said working channel while maintaining frictional engagement with said inner wall surface." Wilder does not disclose that light pipe 44 is capable of moving circumferentially about the inner surface of panel 42. Light pipe 44 is mounted to panel 42 by being positioned through one of the openings 45. However, when positioned through an opening 45, light pipe 44 is constrained from moving circumferentially along panel 42. When light pipe 44 is removed from an opening 45 and positioned in another opening 45, it is not moved circumferentially about an inner surface of panel 42 while maintaining frictional engagement with the inner wall surface. Therefore, Wilder cannot anticipate claim 36 and withdrawal of this basis of the rejection of claim 36 is respectfully requested.

Claim 42 depends from claim 36 and is allowable at least for the reasons claim 36 is allowable and for other reasons. These claims distinguish Florin at least for the reasons claim 36 does and for other reasons. For example, claim 42 distinguishes Wilder for the same reasons provided above with respect to claim 9. Therefore, withdrawal of this basis of the rejection of claim 42 depending from claim 36 is respectfully requested.

Claim 46 recites a retractor with a working channel and "a lighting element including a pair of wall members and at least one light transmitting element between said pair of wall members, said pair of wall members forming a concavely curved inner wall surface of said lighting element and an opposite convexly curved outer wall surface of said lighting element, said outer wall surface positioned along said inner wall surface of said retractor with said inner wall surface of said lighting element oriented toward and exposed to said working channel." Wilder does not disclose that light pipe 44 includes any concavely curved wall surface exposed to a working channel of panel 42. Light pipe 44 is only disclosed to include exterior convexly curved surfaces exposed to panel 42. Nor has the examiner provided any explanation of were Wilder discloses these features. Therefore, withdrawal of this basis of the rejection of claim 46 is respectfully requested.

Claims 2-4, 17-18, 27-28, 37 and 38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin in view of U.S. Patent No. 6,621,966 to Lail. Claims 2-4, 17-18, 27-28 and 37-38 depend directly or indirectly from claims 1, 16, 26, 36 and 46, respectively, which are allowable for the reasons provided herein. Therefore, these claims are allowable at least for the



reason they depend from an allowable base claim. Withdrawal of the rejection of these claims is respectfully requested.

Claims 1-5, 8-11, 13-18, 20-23, 25-28, 31-33, 35-38, 40, 42-43, 45-47, 49 and 55-59 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,592,199 to Ostensen in view of Wilder. Ostensen was asserted to disclose a tubular retractor 12 with a fiber optic lighting element 22 attached to an inner surface of retractor 12, with reference to Fig. 1, col. 2, lines 53-75 and col. 3, lines 1-16. Ostensen also discloses that lighting element 22 is a sheath or rod, and that it is preferably rigid but could also be flexible. There is no disclosure or teaching that lighting element 22 is resilient or otherwise configured to return toward a pre-bent or pre-deformed configuration after it is bent, or that lighting element 22 is resiliently or otherwise frictionally engageable to the inner surface of retractor 12.

The examiner cites Wilder in an attempt to remedy Ostensen's failure to disclose attachment of the lighting element to the inner surface of retractor 12. The examiner asserts that Wilder teaches "snap-in clips or wall members (18, 19) for removable frictional engagement with a lighting element so that the lighting element can be attached to a surface while preventing movement thereof (Fig. 2 and col. 16 (sic), line 3-11)."

Claim 1 recites "a lighting element including at least one wall member and at least one light transmitting element along said at least one wall member, said at least one wall member being bendable and resilient so that when bent and positioned along said inner wall surface said at least one wall member returns toward said pre-bent configuration and frictionally engages said inner wall surface" of the retractor and that "said frictional engagement sufficient to maintain a position of said lighting element relative to said retractor after said lighting element is moved while frictionally engaging said inner surface to said position". As stated in the Office Action, Ostensen does not disclose or teach attaching the lighting element to the inner surface of retractor 12, and Wilder teaches preventing movement of the lighting element when it is attached to the retractor. Furthermore, clips 18, 19 engage holes in the retractor and cannot be moved along a surface of the retractor while engaged to the retractor. Therefore, Ostensen and Wilder fail to teach or suggest any wall member of the lighting element having the features recited in claim 1. Therefore, claim 1 is not taught or suggested by Ostensen and Wilder and withdrawal of this basis of the rejection of claim 1 is respectfully requested.

Claims 2-5, 8-11, 13-15 and 56 depend from claim 1 and were also rejected as unpatentable over Ostensen and Wilder. These claims distinguish Ostensen and Wilder at least for the reasons claim 1 does and for other reasons. For example, claim 8 recites "wherein said lighting element is movable circumferentially along said inner wall surface while said at least one wall member maintains frictional engagement therewith." Wilder teaches clips 18, 19 that are locked into holes in the retractor and prevent any circumferential movement of the lighting element, and thus does not teach or suggest these features. Claim 9 recites "wherein said at least one wall member includes a first wall member including a convexly curved surface positionable along said inner wall surface of said retractor and a second wall member including a concavely curved wall surface opposite said convexly curved wall surface, wherein said concavely curved wall surface is exposed to said working channel." Wilder does not teach any convexly curved surface of clips 18, 19 positionable against the inner surface of the retractor or that clips 81, 19 include an opposite concavely curved wall member exposed to the working channel. Wilder teaches clips 18, 19 each with a single wall member, and that wall member includes a convexly curved surface exposed to the working channel and an internal concavely curved surface. Amended claim 15 recites "wherein said retractor is a tube with said inner surface of said retractor extending completely around said tube to define said working channel, and said at least one wall member of said lighting element extends around more than 50 percent of said inner wall surface of said tube." None of the references teach any lighting element with a wall member that extends more than 50 percent around the inner surface of a retractor that is a tube. Claim 56 recites "wherein said at least one wall member includes a pair of wall members forming a passage therebetween and said at least one light transmitting element is positioned in said passage, said passage opening at distal and proximal ends of said pair of wall members and said pair of wall members extend between opposite lateral edges of said pair of wall members, said pair of wall members being coupled to one another along said opposite lateral edges." The Office Action does not identify or provide any explanation for how clips 18, 19 are considered to teach these features. Therefore, withdrawal of this basis of the rejection of claims 2-5, 8-11, 13-15 and 56 depending from claim 1 is respectfully requested.

Claim 16 recites "a lighting element including at least one wall member and at least one light transmitting element along said at least one wall member, said at least one wall member

being bendable to conform with said inner wall surface and resilient to normally return toward a pre-bent configuration to frictionally engage said inner wall surface when said lighting element is positioned against said inner wall surface" of the retractor and that "said frictional engagement sufficient to maintain a position of said lighting element relative to said retractor after said lighting element is moved while frictionally engaging said inner surface to said position." As stated in the Office Action, Ostensen does not disclose or teach attaching the lighting element to the inner surface of retractor 12, and Wilder teaches clips 18, 19 preventing movement of the lighting element when it is attached to the retractor. Furthermore, clips 18, 19 engage holes in the retractor and cannot be moved along a surface of the retractor while engaged to the retractor. Therefore, Ostensen and Wilder fail to teach or suggest any wall member of the lighting element having the features recited in claim 16, and withdrawal of this basis of the rejection of claim 16 is respectfully requested.

Claims 17-18, 20-23, 25 and 57 depend from claim 16 and were also rejected over Ostensen and Wilder. These claims distinguish Ostensen and Wilder at least for the reasons claim 16 does and for other reasons. For example, claim 20 recites "wherein said lighting element is movable axially along said inner wall surface while said at least one wall member maintains frictional engagement therewith." Since clips 18, 19 fix the position of the lighting element to the retractor, Ostensen and Wilder cannot teach claim 20. Furthermore, claims 21, 22, 25 and 57 distinguish Ostensen and Wilder for the same reasons provided above with respect to claims 8, 9, 15 and 56, respectively. Therefore, withdrawal of this basis of the rejection of claims 17-18, 20-23, 25 and 57 depending from claim 16 is respectfully requested.

Claim 26 recites "a lighting element including at least one wall member and at least one light transmitting element along said at least one wall member, said at least one wall member being deformable from a first configuration to conform with said inner wall surface and configured to normally return toward said first configuration to frictionally engage said inner wall surface, wherein said lighting element is movable axially along said inner wall surface of said retractor for repositioning said lighting element in said working channel while maintaining frictional engagement with said inner wall surface." As discussed above, Wilder teaches fixing the lighting element in position on the retractor with lips 18, 19. There is no teaching or suggest that the lighting element is movable axially along the inner surface of the retractor while

maintaining frictional engagement with the inner surface, nor has the Office Action identified any such teaching. Therefore, Ostensen and Wilder do not teach or suggest claim 26.

Claims 27-28, 31-33, 35 and 58 depend from claim 26 and were also rejected over Ostensen and Wilder. These claims distinguish Ostensen and Wilder at least for the reasons claim 26 does and for other reasons. For example, claims 31, 32, 35 and 58 distinguish Ostensen and Wilder for the same reasons provided above with respect to claims 8, 9, 15 and 56, respectively. Therefore, withdrawal of the rejection of claims 27-28, 31-33, 35 and 58 depending from claim 26 is respectfully requested.

Claim 36 recites "a lighting element including at least one wall member and at least one light transmitting element along said at least one wall member, said at least one wall member frictionally engageable with said inner wall surface, wherein said lighting element is movable circumferentially about said inner wall surface of said retractor for repositioning said lighting element in said working channel while maintaining frictional engagement with said inner wall surface." As discussed above, Wilder teaches fixing the lighting element in position on the retractor with clips 18, 19. There is no teaching or suggest that the lighting element is movable circumferentially about the inner surface of the retractor while maintaining frictional engagement with the inner surface, nor has the Office Action identified any such teaching. Therefore, Ostensen and Wilder do not teach or suggest claim 36.

Claims 37-38, 40, 42-43, 45 and 59 depend directly or indirectly from claim 36 and are allowable at least for the reasons claim 36 is allowable and for other reasons. For example, claims 40, 42, 45 and 59 distinguish Ostensen and Wilder for the same reasons provided above with respect to claims 20, 9, 15 and 56, respectively. Therefore, withdrawal of the rejection of claims 37-38, 40, 42-43, 45 and 59 depending from claim 36 is respectfully requested.

Claim 46 recites a retractor with a working channel and "a lighting element including a pair of wall members and at least one light transmitting element between said pair of wall members, said pair of wall members forming a concavely curved inner wall surface of said lighting element and an opposite convexly curved outer wall surface of said lighting element, said outer wall surface positioned along said inner wall surface of said retractor with said inner wall surface of said lighting element oriented toward and exposed to said working channel." Ostensen and Wilder both teach rod or sheath shaped lighting elements that are convexly curved

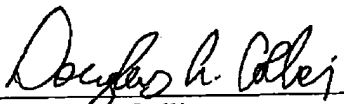
around the entire outer surface thereof, and lack and concavely curved wall member exposed to a working channel. Furthermore, even if clips 18, 19 in Wilder are considered wall members, clips 18, 19 each only include one wall member, and fail to teach the pair of wall members recited in claim 46. Clips 18, 19 also include only convexly curved surfaces exposed outwardly from the retractor blade, and only include linear wall surfaces positioned along the surface of the retractor blade. Therefore, withdrawal of this basis of the rejection of claim 46 is respectfully requested.

Claims 47, 49 and 55 depend from claim 46 and are allowable at least for the reasons claim 46 is allowable and for other reasons. For example, claims 49 and 55 distinguish Ostensen and Wilder for the same reasons provided above with respect to claims 15 and 56. Withdrawal of this basis of the rejection of these claims is respectfully requested.

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance with pending claims 1-29, 31-40, 42-49 and 55-59. Reconsideration of the present application as amended is respectfully requested. Timely action towards a Notice of Allowance is hereby solicited. The Examiner is encouraged to contact the undersigned by telephone to resolve any outstanding matters concerning the present application.

Respectfully submitted:

By:

  
Douglas A. Collier  
Reg. No. 43,556  
Krieg DeVault LLP  
2800 One Indiana Square  
Indianapolis, Indiana 46204-2079  
Phone: (317) 238-6333

Response to Non-Final Office Action  
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